

**From:** "Shane Best" <zbest@texasbankandtrust.com> on 04/20/2004 10:30:07 AM  
**Subject:** Economic Growth and Regulatory Paperwork Reduction Act of 1996 Review

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Dear Federal Reserve:

I am pleased banking regulators are examining the critical problem of regulatory burden. Consumers would be shocked to know how much time and cost is involved in regulatory compliance, since this hidden cost is ultimately borne by us all. Consumer protection lending rules, though well intentioned, unnecessarily increase costs for consumers and hinder banks in serving customers. While each individual requirement may not be burdensome by itself, the cumulative impact of consumer lending rules slows loan processing time and leads to "tune out" by the overwhelming majority of consumers. Rather than welcoming the protection, such consumers feel harassed and resent the cost and time involved. In some cases, such as with credit card rules and the Fair Credit Reporting Act, consumers use the regulations to take advantage of lenders. Following are comments on specific consumer protection regulations that are not only a burden to banks but are also a problem for consumers.

RESPA - required Notice to First Lien Mortgage Loan Applicants regarding servicing:

Very few community bank customers take the time to even read this notice. If the notice is necessary, a much less verbose version would be more meaningful and effective.

Community Reinvestment Act (CRA):

CRA Regulations need to be greatly simplified and banks need flexibility in demonstrating their service to and reinvestment in the communities from which they draw deposits, rather than being subjected to inflexible and arbitrary standards. Streamlining of this process and an increase in the cutoff level for the Large Bank exam to banks with assets of at least \$1 billion is merited because of the cost to smaller institutions who are in touch with and are reinvesting their funds in the communities they serve.

Truth in Lending (Federal Reserve Regulation Z):

Right of Rescission. One onerous requirement is the three-day right of rescission under Regulation Z. Very rarely does a consumer exercise the right. Consumers resent having to wait three additional days to receive loan proceeds after the loan is closed, and they often criticize the bank for this procedure. Even though this is a statutory requirement, inflexibility in the regulation making it difficult to waive the right of rescission aggravates the problem. Depository institutions should be given much greater latitude to allow customers to waive the right of rescission.

Finance Charges. Another problem under Regulation Z is the definition of the finance charge. Assessing what must be included in - or excluded from

- the finance charge is not easily determined, especially fees and charges levied by third parties. And yet the calculation of the finance charge is critical in properly calculating the annual percentage rate (APR). This process needs simplification so that all consumers can understand the APR and bankers can easily calculate it.

Credit Card Loans. Resolution of billing-errors within the given and limited timeframes for credit card disputes is not always practical. The rules for resolving billing-errors are heavily weighted in favor of the consumer, making banks increasingly subject to fraud as individuals learn how to game the system, even going so far as to do so to avoid legitimate bills at the expense of the bank. There should be increased penalties for frivolous claims and more responsibility expected of consumers.

Equal Credit Opportunity Act (Federal Reserve Regulation B):

The most significant issue with Regulation B is the conflict between this regulation's requirements not to maintain information on the gender or race of a borrower and the need to maintain sufficient information to identify a customer under section 326 of the USA PATRIOT Act.

Home Mortgage Disclosure Act (HMDA) (Federal Reserve Regulation C)

Exemptions. The HMDA requirements are the one area subject to the current comment period that does not provide specific protections for individual consumers. HMDA is primarily a data-collection and reporting requirement and therefore lends itself much more to a tiered regulatory requirement. The current exemption for banks with less than \$33 million in assets is too low and should be increased to at least \$1 billion.

Volume of Data. The volume of the data that must be collected and reported is clearly burdensome. Ironically, at a time when regulators are reviewing burden, the burden associated with HMDA data collection was only recently increased substantially. Consumer activists are constantly clamoring for additional data and the recent changes to the requirements acceded to their demands without a clear cost-benefit analysis. All consumers ultimately pay for the data collection and reporting in higher costs, and regulators should recognize that.

Certain data collection requirements are difficult to apply in practice and therefore add to regulatory burden and the potential for error, e.g., assessing loans against HOEPA (the Home Owners Equity Protection Act) and reporting rate spreads; determining the date the interest rate on a loan was set; determining physical property address or census tract information in rural areas, etc. Rate spreads are not a consistent indicator of predatory pricing practices, due to shifts in the yield curve that are created by market forces and governmental policies designed to artificially lower short term rates.

Flood Insurance:

The current flood insurance regulations create difficulties with customers, who often do not understand why flood insurance is required and that the federal government - not the bank - imposes the requirement. The cost and time associated with flood map amendment is burdensome and frustrating to consumers. Because of potential liability, lenders are forced to use determination services and the flood determination services have an incentive to err on the more costly side in performing a very inexact service.

#### Additional Comments

It would be much easier for banks, especially community banks that have limited resources, to comply with regulatory requirements if requirements were based on products and all rules that apply to a specific product were consolidated in one place. Second, regulators require banks to provide customers with understandable disclosures and yet do not hold themselves to the same standard in drafting regulations that can be easily understood by bankers. Finally, examiner training needs to be improved to ensure that regulatory requirements are properly - and uniformly - applied.

#### Conclusion

The impact of overlapping and unnecessarily lengthy and cumbersome regulations and disclosure requirements create tremendous inefficiency in the administration of consumer lending regulation. The "tune out" effect on customers means many of the regulatory objectives are not effectively accomplished and customers would be astounded at the cost we all bear because of these inefficiencies. The volume of regulatory requirements facing the banking industry today presents a daunting task for any institution, but severely saps the resources of community banks. We need help immediately with this burden. Community bankers are in close proximity to their customers, understand the special circumstances of the local community and provide a more responsive level of service than megabanks. However, community banks cannot continue to compete effectively and serve their customers and communities without some relief from the crushing burden of regulation. Thank you for the opportunity to comment on this critical issue.

Sincerely,

Shane A. Best